

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2003-0678, State of NH v. James McLaughlin, the court on January 10, 2005, issued the following order:

Following a jury trial, the defendant, James McLaughlin, was convicted of two counts of robbery, see RSA 636:1 (1996), two counts of kidnapping, see RSA 633:1 (Supp. 2004), felon in possession, see RSA 159:3 (2002), and simple assault, see RSA 631:2-a (1996). On appeal, he contends that the trial court erred in denying his motion to dismiss one of the robbery indictments. We affirm.

To prevail on a sufficiency of the evidence claim, the defendant bears the burden of proving that no rational trier of fact considering the evidence in the light most favorable to the State could have found guilt beyond a reasonable doubt. State v. King, 151 N.H. 59, 61 (2004). We examine each evidentiary item in the context of all the evidence, not in isolation. Id.

This case involves two victims, a male and a female. The defendant does not contest the physical force element of robbery, see RSA 636:1; rather, he argues that because the State failed to prove that he took property from the female victim, his second robbery conviction cannot stand. We will assume without deciding that he has sufficiently briefed this issue to allow appellate review. See State v. Blackmer, 149 N.H. 47, 49 (2003).

In this case, the evidence includes the testimony of the victims that on the night of the assault, they went to Wal-Mart where the male victim purchased a necklace for his girlfriend, the female victim. Defense counsel conceded at oral argument that the female victim had an interest in the necklace and that it was clear that her boyfriend had purchased it for her. They placed the necklace in the back of his truck; the male victim retrieved it for the defendant during the course of the robbery. That the male victim provided the necklace when the defendant demanded it does not alter our conclusion that, viewing the evidence in the light most favorable to the State, the record contains sufficient evidence to establish that the necklace belonged to the female victim and thus to support two robbery convictions. Cf. State v. Gorham, 55 N.H. 152, 165 (1875).

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To the extent that the defendant presents additional arguments, they are either not preserved or lack merit. See State v. Blackmer, 149 N.H. at 49.

Affirmed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**

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